

READOPTION OF AMENDMENTS TO RULES AT 329 IAC 11 CONCERNING SOLID WASTE PROCESSING FACILITIES

#01-207(SWMB)(formerly #95-8)

Overview

The Indiana Department of Environmental Management (IDEM) has opened the following rules in Title 329 of the Indiana Administrative Code pursuant to comments received under IC 13-14-9.5: 329 IAC 1-1, 329 IAC 12-2, and 329 IAC 13-3. This rulemaking is required pursuant to IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. A rule that was adopted under a provision of IC 13 and was in effect on December 31, 1995, expires not later than January 1, 2002. All rules adopted after that date under IC 13-14-9, with some exceptions listed in IC 13-14-9.5-1, expire on January 1 of the seventh year after the year in which each rule takes effect. The First Notice of Comment Period and Continuation of First Notice of Comment Period opened all rules required to be opened in Title 329 for readoption, regardless of their initial effective date. Other comments received are being included and considered within other currently existing rulemakings.

Rules being readopted in this rulemaking are shown, in their entirety. Rules not commented on during the First Notice of Comment Period or the Continuation of First Notice will be readopted by publication of a Notice of Readoption in the Indiana Register pursuant to IC 13-14-9.5-4(c).

Citations Affected

329 IAC 11-9; 329 IAC 11-11; and 329 IAC 11-14

Affected Persons

These rules affect owners and operators of some solid waste processing and storage facilities.

Reason(s) for the Rule

This rule will readopt existing rule language with corrections. This rulemaking is required pursuant to IC 13-14-9.5.

Economic Impact of the Rule

There are no economic impacts due to this rule.

Benefits of the Rule

These rules were evaluated for content and consistency. Some amendments were made to update the rules. This rulemaking will keep these rules from expiring on January 1 of the seventh year after the year in which each rule takes effect.

Description of the Rulemaking Project

This rulemaking is required pursuant to IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. Rules being readopted in this rulemaking are shown, in their entirety. Changes were made to require on-site incinerators to send solid waste reports annually.

Scheduled Hearings

First Public Hearing: November 17, 1998, 1:30 p.m., Indiana

Government Center South, Conference Center Room A; renoticed to May 16, 2000; continued to June, 20, 2000, but board didn't act on rule. First Public Hearing: November 21, 2000; continued to January 16, 2001, but postponed. First Public Hearing: May 15, 2001. The proposed rule was published on July 1, 2001, without a third comment period. The Second Public Hearing will be August 21, 2001.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

There are no federal requirements regarding solid waste processing facilities.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published that contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Solid Waste Management Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/ hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule must be approved by the Attorney General and the Governor. When approved, the rule becomes effective 30 days after filing with the Secretary of State.